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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/518,120	03/03/2000	David L Robinson	0739D-000074	7587

7590 01/27/2004

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EXAMINER

EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 01/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 22

Application Number: 09/518,120
Filing Date: March 03, 2000
Appellant(s): ROBINSON ET AL.

MAILED

JAN 27 2004

GROUP 3600

Mr. M. Malinzak
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 22 December 2003.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The rejection of claims 23-38 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

Prior art relied upon by the examiner in the rejection of the claims under appeal.

5,344,215	DAHLBACKA, BRUCE B.	9-1994
5,718,482	ROBINSON, DAVID L.	2-1998
5,299,853	GRISWOLD et al.	4-1994

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 23-38 are rejected under 35 U.S.C. 103(a). This rejection is set forth in prior Office Action, Paper No. 16.

(11) Response to Argument

Applicant argues that the Dahlbacka reference fails to disclose a linear seat recliner with a recliner rod including a body having at least three pairs of substantially

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planar diametrically opposed and parallel flats. Applicant concedes that the recliner rod disclosed in Dahlbacka has two pairs of planar flats as shown in Figure 3. The Examiner contends that it would have been well within the purview and obvious to one of ordinary skill in the art at the time the invention was made to provide another pair of parallel flats on the recliner rod such that the rod has three pairs of planar flats with a hexagonal cross section because a recliner rod including a body with two pairs of planar flats is functionally equivalent to a recliner rod including a body with three pairs of planar flats. Also, Applicant's specification does not state that the claimed three pairs of substantially planar flats solves any particular problem or produces any unexpected results. In addition, Applicant's specification on page 6, lines 14-22 recites:

One skilled in the art will appreciate that other geometrical cross sections may be implemented which do not depart from the scope of the present invention as defined by the appended claims. For example, Figure 4 represents a cross section of a recliner rod 28A having only two flats 52A and 54A, respectively. The flats may be constructed using a variety of methods such as coining a round rod or simply extruding the shaped directly from a die. Similarly, Figure 5 is a representation of the cross section of a recliner rod 28B having first and second flats 52B and 54B, respectively.

Therefore, Applicant's admits that it is common knowledge to one of ordinary skill in the art to modify a recliner rod to have either two or three pairs of planar flats. Moreover, the recliner rod with a body shaped to have three pairs of planar flats is merely a matter of design choice, and thus does not serve to patentably distinguish the claimed invention over the prior art. See In re Kuhle, 526 F.2d 553, 188 USPQ 7 (CCPA 1975).

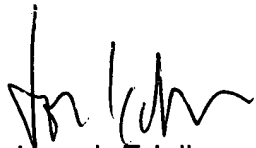
Next, Applicant argues that neither Dahlbacka nor Robinson disclose a recliner rod including a stop integrally formed from a bottom flat of the recliner rod body. Applicant concedes that Robinson discloses a recliner rod including an integral stop. Note, Dahlbacka discloses a recliner rod including top and bottom planar flats in the same manner as the Applicant's recliner rod. Therefore, in view of the Robinson teaching of a recliner rod having an integrally formed stop, it would have been obvious to one of ordinary skill in the art to utilize such an integral stop in the recliner rod of Dahlbacka. One would have been motivated to make such a modification in view of the suggestion in Robinson that the integrally formed stop on the recliner rod allows for a linear seat recliner less susceptible to undesirable movement of the seatback relative to the seat member, commonly referred to as "chucking", without requiring seat recliner components with exceedingly close tolerances which are expensive to manufacture; and that an integral stop provides a limited range of axial motion defining a corresponding range of angular movement of the seatback (column 3, lines 41-56).

Please note the 35 U.S.C. 103(a) rejection of claims 29-31 as being unpatentable over Dahlbacka in view of Robinson as applied to claims 23-38 and 32-38, and further in view of Griswold et al. not directly addressed by the Applicant in the Appeal Brief.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,



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January 22, 2004

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